

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

EVELYN BUTCHER,
Plaintiff,

V.

THE UNIVERSITY OF TEXAS HEALTH
SCIENCE CENTER OF HOUSTON
Defendant.

CIVIL ACTION NO. H-08-0244

DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S
FIRST AMENDED ORIGINAL COMPLAINT

TO THE HON. KEITH P. ELLISON, UNITED STATES DISTRICT JUDGE:

Defendant University of Texas Health Science Center of Houston, (“UTHSCH” or “Defendant”) by and through its attorney, the office of the Attorney General of Texas, files this its Answer and Affirmative Defenses to Plaintiff’s First Amended Original Complaint and would respectfully show this court as follows:

ORIGINAL ANSWER

The following conforms numerically with the numbered paragraphs in Plaintiff's First Amended Original Complaint, beginning on page 1. All allegations not expressly admitted are denied.

1. Defendant admits that Plaintiff Evelyn Butcher is a citizen of the United States and the State of Texas and resides in Harris County, Texas.
2. Defendant admits that Defendant UTHSCH, which is a branch of the publicly funded University of Texas System, has its main administrative offices at 6901 Bertner Avenue,

Houston, Texas 77030 and that Defendant can be served through its President James T. at 7000 Fannin, Suite 1700, Houston, Texas 77030.

3. There is no paragraph 3 in the Plaintiff's First Amended Original Complaint.

JURISDICTION AND VENUE

4. Defendant admits that this Court can exercise personal jurisdiction over UTHSCH.

5. Defendant admits subject matter jurisdictional allegations under 42 U.S.C. '2000e-5(f)(3) and 28 U.S.C. §1331. Defendant denies any other basis of jurisdiction for this Court.

Defendant denies all conditions precedent for filing this matter have already occurred.

Defendant admits the EEOC issued a Notice of Right to Sue on October 23, 2007.

6. Defendant denies the that any of the alleged acts complained of occurred.

FACTS

7. Admit.

8. Admit.

9. Admit.

10. Admit.

11. Deny.

12. Deny.

13. Defendant admits that leave was approved from September 28, 2006 to October 11, 2006.

14. Deny.

15. Deny.

16. Defendant admits that Plaintiff exhausted her FMLA leave and two weeks of unpaid leave. Defendant denies the remainder of the allegations in this paragraph.

17. Defendant denies that Plaintiff requested reasonable accommodations, or that any reasonable accommodations were denied. Admit that Plaintiff requested she be allowed to take three months of personal leave and that Defendant denied this request.

18. Defendant denies that Plaintiff was “forced” to return to work on February 17, 2007. Defendant admits that Plaintiff’s employment was terminated when she did not return to work by said date.

19. Defendant denies that Plaintiff appealed Defendant’s decision to terminate her employment.

CAUSES OF ACTION

20. No response required.

21. Defendant denies this allegation.

22. Defendant denies this allegation.

23. Defendant denies this allegation.

24. Defendant denies this allegation.

25. No response required.

26. Defendant denies this allegation.

27. Defendant denies this allegation.

28. Defendant denies this allegation.

29. Defendant denies this allegation.

Responses to Items **30 – 58** do not require a response because the court dismissed these claims by order dated **November 18, 2008**.

JURY DEMAND

59. No response required.

60. No response required.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

ANDREW WEBER
First Assistant Attorney General

DAVID S. MORALES
Deputy Attorney General for Litigation

ROBERT B. O'KEEFE
Chief, General Litigation Division

/S/ ERIC L. VINSON

ERIC L. VINSON
Attorney-in-Charge
Texas Bar No. 24003115
Assistant Attorney General
Office of the Attorney General
General Litigation Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
Telephone: (512) 463-2120
Facsimile: (512) 320-0667

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I, Eric L. Vinson, hereby certify that a true and correct copy of the foregoing document has been sent via the Court's ECF delivery on the 1st day of December, 2008, to:

John-Baptist Sekumade
10909 Sabo Road
Houston, TX 77089
Email: zululawler@oal.com

/S/ ERIC L. VINSON

ERIC L. VINSON
Assistant Attorney General
